



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

**MAY 17 2018**

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Gary Slaven, President  
Falcon Foundry Company  
96 6<sup>th</sup> Street  
Lowellville, Ohio 44436

Re: Finding of Violation  
Falcon Foundry Company  
Lowellville, Ohio

Dear Mr. Slaven:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Falcon Foundry Company (you) under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you are violating the National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries at your Lowellville, Ohio facility.

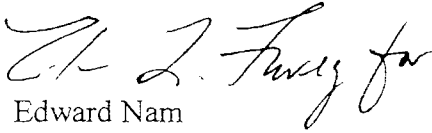
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contacts in this matter are Cody Yarbrough and Virginia Galinsky. You may call them at (312) 886-9137 and (312) 353-2089, respectively, to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Nam", written in a cursive style.

Edward Nam  
Director  
Air and Radiation Division

Enclosure: Small Business Resources Information Sheet

cc: Bob Hodanbosi, Chief, Division of Air Pollution Control, bob.hodanbosi@epa.ohio.gov

James Kavalec, Environmental Manager, Division of Air Pollution Control  
james.kavalec@epa.ohio.gov

Tara Cioffi, Mahoning-Trumbull APCA, tcioffi@youngstownohio.gov

Naeha Dixit, Assistant Regional Counsel, EPA Region 5, dixit.naeha@epa.gov

1. The Area Source NESHAP for Nonferrous Foundries applies to aluminum foundries, copper foundries, and other nonferrous foundries that use material containing aluminum foundry hazardous air pollutants (HAP), copper foundry HAP, or other nonferrous foundry HAP, respectively, which melt at least 600 tons per year of aluminum, copper, and other nonferrous metals, including all associated alloys, and which are area sources of HAP.
2. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11556, defines “copper foundry” to mean “a foundry that melts copper or copper-based alloys and pours molten copper or copper-based alloys into molds to manufacture copper or copper-based alloy castings (excluding die casting) that are complex shapes. For purposes of this subpart, this definition does not include primary or secondary metal producers that cast molten copper to produce simple shapes such as sows, ingots, billets, bars, anode copper, rods, or copper cake.”
3. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11556, defines “copper foundry HAP” to mean “any compound of any of the following metals: lead, manganese, or nickel, or any of these metals in the elemental form.”
4. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11556, defines “material containing copper foundry HAP” to mean “a material containing one or more copper foundry HAP. Any material that contains lead or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), or contains manganese in amounts greater than or equal to 1.0 percent by weight (as the metal), as shown in formulation data provided by the manufacturer or supplier, such as the Material Safety Data Sheet for the material, is considered to be a material containing copper foundry HAP.”

5. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11556, defines “other nonferrous foundry” to mean “a facility that melts nonferrous metals other than aluminum, copper, or copper-based alloys and pours the nonferrous metals into molds to manufacture nonferrous metal castings (excluding die casting) that are complex shapes. For purposes of this subpart, this definition does not include primary or secondary metal producers that cast molten nonferrous metals to produce simple shapes such as sows, ingots, bars, rods, or billets.”

6. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11556, defines “other nonferrous foundry HAP” to mean “any compound of the following metals: chromium, lead, and nickel, or any of these metals in the elemental form.”

7. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11556, defines “material containing other nonferrous foundry HAP” to mean “a material containing one or more other nonferrous foundry HAP. Any material that contains chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), as shown in formulation data provided by the manufacturer or supplier, such as the Material Safety Data Sheet for the material, is considered to be a material containing other nonferrous foundry HAP.”

8. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11550(a)(1), requires the owner and operator of a new or existing affected source to cover or enclose each melting furnace that is equipped with a cover or enclosure during the melting operation to the extent practicable.

9. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11550(a)(2), identifies requirements relating to the purchase of metal scrap for a new or existing affected source.

10. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11550(a)(3), requires the owner and operator of a new or existing affected source to prepare and operate pursuant to a written management practices plan.

11. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11553(a), requires the owner and operator of a new or existing affected source to submit an Initial Notification within 120 days after June 25, 2009 or within 120 days after the source becomes subject to the standard.

12. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11553(b), requires the owner and operator of a new or existing affected source to submit a Notification of Compliance Status no later than 120 days after the applicable compliance date specified in 40 C.F.R. § 63.11545.

13. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11553(c), requires the owner and operator of a new or existing affected source to keep certain records.

14. The Area Source NESHAP for Nonferrous Foundries, at 40 C.F.R. § 63.11553(e), requires the owner and operator of a new or existing affected source to submit reports if deviations occur during the semiannual reporting period.

## **Factual Background**

15. Falcon Foundry owns and operates a nonferrous metal foundry in Lowellville, Ohio (the Facility). The Facility is an area source of HAP.

16. Since 2013, Falcon Foundry has melted both copper and bronze at its Facility. Falcon Foundry melts over 2,000 tons per year of copper and bronze. One of the bronze alloys melted at the Facility contains more than 0.1% lead.

17. Falcon Foundry's Facility is therefore an "other nonferrous foundry" which has melted material containing "other nonferrous foundry HAP" and is subject to the requirements of the Area Source NESHAP for Nonferrous Foundries.

18. EPA conducted an on-site inspection at Falcon Foundry on September 13, 2017. During the inspection, Falcon Foundry informed EPA that it had removed the lids from its furnaces and had not been using them.

19. Falcon Foundry has not prepared and operated pursuant to a written management practices plan.

20. Falcon Foundry has not submitted an Initial Notification or Notification of Compliance Status, nor has it kept the records required by the Area Source NESHAP for Nonferrous Foundries nor submitted reports when deviations occurred.

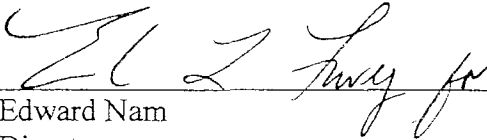
## **Violations**

21. By removing the lids from its furnaces and not covering the furnaces during melting, Falcon Foundry has violated 40 C.F.R. § 63.11550(a)(1).

22. By failing to prepare and operate pursuant to a written management practices plan, Falcon Foundry has violated 40 C.F.R. § 63.11550(a)(3).

23. By failing to submit an Initial Notification and Notification of Compliance Status, and failing to keep records and submit deviation reports, Falcon Foundry has violated 40 C.F.R. §§ 63.11553(a), 63.11553(b), 63.11553(c), and 63.11553(e).

5/17/18  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Edward Nam  
Director  
Air and Radiation Division

## CERTIFICATE OF MAILING

I certify that I sent a Finding of Violation, No. EPA-5-18-OH-10, by Certified Mail, Return Receipt Requested, to:

Gary Slaven, President  
Falcon Foundry Company  
96 6<sup>th</sup> Street  
Lowellville, Ohio 44436

I also certify that I sent copies of the Finding of Violation by email to:

Bob Hodanbosi, Division of Air Pollution Control bob.hodanbosi@epa.ohio.gov  
James Kavalec, Division of Air Pollution Control james.kavalec@epa.ohio.gov  
Tara Cioffi, Mahoning-Trumbull APCA, tcioffi@youngstownohio.gov

On the 22<sup>nd</sup> day of May 2018.



Kathy Jones  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7617 0660 0000 3661 7208

## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### Office of Small and Disadvantaged Business Utilization (OSDBU)

[www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu](http://www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu)

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

### EPA's Asbestos Small Business Ombudsman (ASBO)

[www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman](http://www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman) or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

### Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

### EPA's Compliance Assistance Homepage

[www.epa.gov/compliance](http://www.epa.gov/compliance)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

### Compliance Assistance Centers

[www.complianceassistance.net](http://www.complianceassistance.net)

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

#### Agriculture

[www.epa.gov/agriculture](http://www.epa.gov/agriculture)

#### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

#### Automotive Service and Repair

[www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

#### Chemical Manufacturing

[www.chemalliance.org](http://www.chemalliance.org)

#### Construction

[www.cicacenter.org](http://www.cicacenter.org)

#### Education

[www.campuserc.org](http://www.campuserc.org)

#### Food Processing

[www.fpeac.org](http://www.fpeac.org)

#### Healthcare

[www.hercenter.org](http://www.hercenter.org)

#### Local Government

[www.lgean.org](http://www.lgean.org)

#### Surface Finishing

<http://www.sterc.org>

#### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

#### Printing

[www.pneac.org](http://www.pneac.org)

#### Ports

[www.portcompliance.org](http://www.portcompliance.org)

### Transportation

[www.tercenter.org](http://www.tercenter.org)

### U.S. Border Compliance and Import/Export Issues

[www.bordercenter.org](http://www.bordercenter.org)

### EPA Hotlines and Clearinghouses

[www.epa.gov/home/epa-hotlines](http://www.epa.gov/home/epa-hotlines)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

### Clean Air Technology Center (CATC) Info-line

[www.epa.gov/catc](http://www.epa.gov/catc) or 1-919-541-0800

### Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

### EPA Imported Vehicles and Engines Public Helpline

[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or 1-734-214-4100

### National Pesticide Information Center

[www.npic.orst.edu](http://www.npic.orst.edu) or 1-800-858-7378

**National Response Center Hotline** to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

### Pollution Prevention Information Clearinghouse (PPIC) -

[www.epa.gov/p2/pollution-prevention-resources#ppic](http://www.epa.gov/p2/pollution-prevention-resources#ppic) or 1-202-566-0799

### Safe Drinking Water Hotline -

[www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline](http://www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline) or 1-800-426-4791

### Toxic Substances Control Act (TSCA) Hotline

[tsc hotline@epa.gov](mailto:tsc hotline@epa.gov) or 1-202-554-1404

## Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 14 of the Regulatory Flexibility Act (RFA).

## Regional Small Business Liaisons

[www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons](http://www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons)

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

## State Resource Locators

[www.envcap.org/statetools](http://www.envcap.org/statetools)

The Locators provide state-specific contacts, regulations and sources covering the major environmental laws.

## State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

## EPA's Tribal Portal

[www.epa.gov/tribalportal](http://www.epa.gov/tribalportal)

The Portal helps users locate tribal-related information within EPA and other federal agencies.

## EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has no such policies that may apply to small businesses:

### EPA's Small Business Compliance Policy

[www.epa.gov/enforcement/small-businesses-and-enforcement](http://www.epa.gov/enforcement/small-businesses-and-enforcement)

### EPA's Audit Policy

[www.epa.gov/compliance/epas-audit-policy](http://www.epa.gov/compliance/epas-audit-policy)

## Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

## Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*